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BEFORE THE ARIZONA CORPORATION COMMISSION**COMMISSIONERS**

Arizona Corporation Commission

DOCKETED

BOB STUMP - Chairman
 GARY PIERCE
 BRENDA BURNS
 BOB BURNS
 SUSAN BITTER SMITH

OCT 24 2014

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
 THE ARIZONA DEPARTMENT OF
 TRANSPORTATION TO UPGRADE AN
 EXISTING CROSSING OF THE BURLINGTON
 NORTHERN AND SANTE FE RAILWAY
 COMPANY AT THE INTERSECTION OF SR 303L
 AND US 60, MARICOPA COUNTY, ARIZONA,
 AT MP 167.77.

DOCKET NO. RR-02635B-14-0158

DECISION NO. 74768**OPINION AND ORDER**

DATE OF HEARING:

August 25, 2014

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Scott M. Hesla

APPEARANCES:

Mr. James Redpath, OFFICE OF THE ATTORNEY
 GENERAL, Assistant Attorney General, Transportation
 Section, on behalf of the Arizona Department of
 Transportation;

Mr. Patrick Black, FENNEMORE CRAIG, on behalf of
 the Burlington Northern Santa Fe Railway Company;
 and

Ms. Bridget Humphrey, Staff Attorney, Legal Division
 on behalf of the Safety Division of the Arizona
 Corporation Commission.

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
 Commission finds, concludes, and orders that:

FINDINGS OF FACT**Procedural History**

1. On May 13, 2014, the Arizona Department of Transportation ("ADOT") filed with the
 Arizona Corporation Commission ("Commission") an application for approval for the Burlington

1 Northern and Santa Fe Railway Company ("Railroad") to modify an existing grade separated
2 crossing at the intersection of SR 303L and US 60, Maricopa County, Arizona, at milepost 167.77
3 ("Application").

4 2. On May 28, 2014, a Procedural Order was issued establishing various filing dates and
5 scheduling a hearing for August 25, 2014.

6 3. On June 13, 2014, the Commission's Safety Division, Railroad Safety Section
7 ("Staff") filed a Motion to Vacate Scheduled Hearing.

8 4. On June 23, 2014, ADOT filed a Response to Staff Motion to Vacate Scheduled
9 Hearing.

10 5. On June 25, 2014, a Procedural Order was issued denying Staff's Motion to Vacate
11 Scheduled Hearing and affirming the procedural schedule and hearing date set forth in the May 28,
12 2014 Procedural Order.

13 6. On July 16, 2014, ADOT filed documentation that it had provided public notice of the
14 Application and hearing thereon.

15 7. On August 8, 2014, Staff filed a Memorandum recommending approval of the
16 Application.

17 8. On August 25, 2014, a full public hearing was convened, as scheduled. ADOT, the
18 Railroad, and Staff appeared through counsel. At the conclusion of the hearing, the matter was taken
19 under advisement pending submission of a Recommended Opinion and Order to the Commission.

20 **ADOT's Application**

21 9. In its Application, ADOT is seeking Commission approval to widen the grade
22 separated crossing over the Railroad's tracks at the intersection of SR 303L and US 60. The crossing
23 was approved for grade separation by the Commission in Decision No. 62699 (June 30, 2000).

24 10. The crossing currently consists of two eastbound lanes and one westbound lane. The
25 proposed roadway modification will widen the crossing to twelve lanes, six eastbound lanes and six
26 westbound lanes. According to ADOT, the project is necessary because the crossing has insufficient
27 capacity to accommodate existing and future traffic demands. ADOT testified that the project will
28 not require any modification to the Railroad's tracks.

11. ADOT indicated that the proposed project will take approximately 16 months to complete. Per an agreement with the Railroad, ADOT testified that the crossing will only be closed two to three hours per day to allow ADOT to complete the project.

Staff's Recommendation

12. Staff states that the measures proposed by ADOT are consistent with other similar grade separated crossings in the State and will provide for the public's safety. According to Staff, the proposed project to widen the grade separated crossing is reasonable and in the public interest. Staff therefore recommends that the Application be approved.

13. Staff's recommendation is reasonable and appropriate and should be adopted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. The proposed modification to the grade separated crossing is necessary for the public's convenience and safety.

4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as recommended by Staff.

5. After the project is completed, the Burlington Northern Santa Fe Railway Company will not be required to maintain the crossing in accordance with A.A.C. R14-5-104 because the SR 303L roadway will be maintained by ADOT or its delegate.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application is hereby approved.

IT IS FURTHER ORDERED that the Arizona Department of Transportation shall complete the crossing modification as described in the Application within two years of the effective date of this Decision.

...

IT IS FURTHER ORDERED that the Burlington Northern Santa Fe Railway Company shall notify the Commission, in writing, within ten days of both the commencement and completion of the crossing modification, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

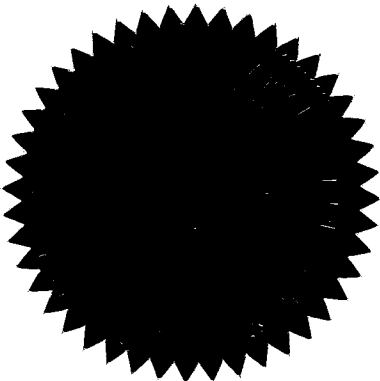
CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 24th day of October 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT

DISSENT
SMH:ru

1 SERVICE LIST FOR:

BURLINGTON NORTHERN AND SANTA FE
RAILWAY

3 DOCKET NO.:

RR-02635B-14-0158

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